THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3481 of 2002

Dated:24.08.2007

Between:

Khaja Ahmed Mohiuddin, S/o.Late Khaja Moinuddin,
and others.

…Petitioners

and

Special Officer and Competent Authority,
Urban Land Ceiling,
Hyderabad.

…Respondent

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WRIT PETITION No.3481 of 2002

ORDER:

The petitioners, who are five in number, are children of late Khaja Moinuddin. It is the case of the petitioners that their mother Karimunnisa Begum was the owner of a residential house bearing No.17-2-628 with land appurtenant thereto admeasuring 3800 square metres, and also other extents of land. Their father also was the owner of the property. Their mother filed a declaration under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'), being C.C.No.13423/76 before the respondent, but the same is still pending. In the meanwhile, one C.Janga Reddy, S/o.Chirukur Ranga Reddy, filed a declaration claiming among others, the house owned by the petitioners as well. The same appears to have been finalized by the respondent and after declaring him to be surplus vacant land holder, it is alleged, the field staff from the Office of the respondent visited the petitioner's property in Survey No.15 (along with appurtenant land) and made attempts to take possession. On this cause of action the petitioners filed the instant Writ Petition seeking appropriate direction to the respondent not to interfere with their possession.

The Additional Special Officer – I filed a counter affidavit. It is admitted that the mother and father of the petitioners filed declarations in 1976, and that they are pending. The allegation made in paragraph 7 of the petitioners' affidavit that the field staff tried to dispossess the petitioners, is however, not specifically denied.

This Court has heard the learned Counsel for the petitioners and the learned Special Counsel for Urban Land Ceiling, who reiterated their respective positions as disclosed in the pleadings. After having heard both the Counsel, this Court is of considered opinion that having regard to the fact that the matter is still pending with the respondent at the stage of enquiry under Section 8 of the Act, it is not possible to deal with the questions raised by the petitioners' Counsel that even if the property of the petitioners is declared by Janga Reddy, it is not permissible to the respondent to take possession of the property, unless a proper determination is made with reference to the declaration made by the petitioners' mother. Therefore, this Court is of considered opinion that the respondent at least now should immediately initiate processing of the declaration, being C.C.No.13423/76, filed by the petitioners' mother Smt.Karimunnisa Begum. The petitioners are given liberty to file appropriate application to get impleaded as legal representatives. The enquiry may be completed and orders under Section 8(4) of the Act and final statement under Section 9 of the Act may be issued within a period of four months from the date of receipt of a copy of this order. Till then, if the petitioners are in possession of House No.17-2-628 along with appurtenant land, as alleged, on condition that they shall not raise further construction and shall not create third party rights, there shall be *status quo.*

The Writ Petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

24.08.2007

vs